

Jean Baeten  
Head of the Tax Department

European Commission  
Directorate-General for Taxation and Customs  
Union  
Rue de Spa 3, Office 06/31  
B-1049 Brussels  
TAXUD-FINTAX-REG-ORG-NON-  
FIN@ec.europa.eu

Our ref.: JB/ALE

Brussels, 19 April 2011

Dear Sir, Madam,

### **Consultation on financial sector taxation**

## About the Federation of Enterprises in Belgium

Federation of Enterprises in Belgium (FEB-VBO)  
Rue Ravenstein 4  
1000 Brussels  
Belgium  
Identification number in the register: **47676761061-93**

The Federation of Enterprises in Belgium (FEB-VBO) is the only multi-sector employers' organisation representing companies in all three regions of Belgium. Its members, Belgium's leading **sectoral federations**, represent companies in key industrial and service sectors.

FEB has 33 full members, all of which are professional sectoral federations, as well as a number of applicant and corresponding members. All in all, it represents more than **30,000 businesses**, of which **25,000 are small or medium-sized enterprises**.

FEB represents approximately **1.5 million workers** in the private sector.

## FEB reply to the consultation on financial sector taxation

Legal Affairs and Tax  
Department  
T + 32 2 515 08 63  
F + 32 2 515 09 85  
jb@vbo-feb.be

The Federation of Enterprises in Belgium (FEB) thanks the European Commission for the opportunity to give its views on the topic of taxation of the financial sector.

### **General remarks**

The FEB agrees that the substantial reforms should be pursued to ensure greater resilience of the financial sector, limit the built up of systemic risks, better protect taxpayers' money (both corporate and private) and reduce moral hazard.



> Continuation 1 of letter of 18 April 2011

The core of this reform agenda is to improve - in an internationally coordinated process – the financial supervision framework, the capital and liquidity requirements and the crisis management and resolution mechanisms.

The financial sector should participate in restoring high sustainable growth and greater fiscal sustainability in the years ahead. This means first and foremost to rebuild adequate capital levels, overhaul risk management practices and provide sufficient and affordable financing to meet large investment needs in the rest of the economy.

Any regulatory or tax initiative should be assessed against this background, looking at the cumulative impact of reforms on the capital position of the financial sector and the availability of finance to stimulate growth. A combination of tighter prudential rules and higher taxation will invariably put upward pressure on the cost of capital and downward pressure on investment and job creation. Instruments used to ensure a swift return to financial and fiscal stability must be developed in a way that minimizes any unintended consequences on growth and innovation in the broader economy. This is a necessary pre-condition for a successful and lasting return to healthier public finances.

It is also vital to maintain a level playing field and avoid harmful regulatory arbitrages between different jurisdictions, which would be detrimental to all and dangerous for the EU's competitiveness in particular. Increased interdependencies make coordinated actions particularly important.

### **Taxation of the financial sector**

In general the FEB is, for several reasons, not in favor of sectoral taxation measures.

1. We are not at all convinced that taxation of the financial sector is the most appropriate instrument to prevent future crises. It seems that an important driver for the member states to go ahead with financial sector taxation is the perspective of raising new tax revenues from a economic sector with a flawed image and this without public resistance.

2. Specific or sectoral taxes are excessively complex both for taxpayers and for public authorities and they often create unexpected or unwanted spillover effects. That is the reason why in recent history they have been replaced by general tax systems (personal income tax, corporate tax, VAT,...). Any further initiative on financial sector taxation should therefore be assessed against the cumulative impact of reforms affecting the financial sector, with a particular emphasis on consequences for access to finance for (non-financial) companies. Impact assessments should address the issue of tax administration both for public authorities and the financial



> Continuation 2 of letter of 18 April 2011

sector and the interface with new prudential rules and the possible introduction of privately funded resolution instruments. The impact on the cost of capital should remain proportionate and moderate.

3. Member states could be tempted to expand this precedent of sectoral taxation to other parts of the economy. Given the budgetary constraints, countries might even be tempted to turn it into a “General Activity Tax” that would come on top of the existing (corporate and indirect) tax systems. Non-discrimination and constitutional rules, makes this risk of extension to other (or all) sectors anything but a remote prospect. A sectoral or general activity tax will be detrimental to the development of economic activity in the EU and will endanger the competitiveness of our economy.

4. Additionally the FEB does not agree with the European Commission that additional taxes on the financial sector are justified because of the VAT exemption. The VAT exemption is a huge cost for the financial sector. Because VAT is a tax on consumption, economic operators should only be the tax collectors. Non-deductible VAT however is a tax that is borne by the financial sector. Financial services are therefore under-taxed, while the financial sector itself is overtaxed.

The VAT exempt status creates a “hidden VAT” that is passed on to the customers. The introduction of a FTT or a FAT will only exacerbate the problem of these hidden costs. It also creates a distortion in the efficient distribution of goods and services because it encourages internalization of tasks. Last but not least, from a public revenue perspective subjecting the financial servicing to VAT would also be beneficial.

As the FAT and the FTT are presented as alternatives to VAT, the FEB asks the European Commission and the member states to continue and intensify their discussions on all three parts of the revision of the VAT treatment of the financial sector (i.e. definitions, option to tax and cost sharing). This is the preferred option, instead of going for a second or third best solution (FTT or FAT). The “difficult to tax” reasons that underlie the VAT exemption can now be overcome. In any case member states will run into the same issues when trying to design a FAT or FTT.

5. To conclude the FEB recognizes that several (but not all) financial institutions have benefited from substantial support from the public authorities and that they should “make a fair contribution in return”. However the FEB points out that these bailout plans were not unconditional and that the financial institutions already have to pay a fair remuneration to the public authorities in the form of interests, dividends, penalties, recently introduced bank levies... Also the compliance with the ongoing regulatory changes puts a considerable financial burden on the financial sector. Additional (financial) burdens can therefore only be considered if it is proven that the existing arrangements do not suffice to compensate for the costs of the bailout schemes.



> Continuation 3 of letter of 18 April 2011

If the European Commission nevertheless would go ahead with its proposals for financial sector taxation, it should follow similar principles as for the rest of the economy. Unilateral measures on EU-level should not be pursued in the absence of a global agreement. Unilateral measures will lead to a different treatment in Europe and elsewhere, distorting competition, shifting transactions to less regulated areas and potentially leading to counterproductive outcomes in terms of global financial stability.

The proposed measures should be consistent with the internal market (not hamper cross-border financial services), proportionate, transparent, provide legal certainty for all companies and safeguard the competitiveness of the European financial sector and of the European economy as a whole. Double taxation should be avoided, and no duplication of purposes should be allowed between regulatory and tax initiatives. In any case, the introduction of specific taxes on the financial sector may in no way be an excuse not to continue with the revision of the VAT rules on financial services.

Jean Baeten